

SECOND REGULAR SESSION

HOUSE BILL NO. 1542

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIESE.

Read 1st time January 21, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3827L.011

AN ACT

To amend chapter 565, RSMo, by adding thereto one new section relating to a death penalty commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 565, RSMo, is amended by adding thereto one new section, to be
2 known as section 565.042, to read as follows:

**565.042. 1. In order to conduct a fair, unbiased, and impartial study of all aspects
2 of the death penalty as administered in Missouri, there is hereby created a "Commission
3 on the Death Penalty", to consist of nine members: one member from each political party
4 in the house of representatives, to be appointed by the speaker of the house of
5 representatives; one member from each political party in the senate, to be appointed by the
6 president pro tem; one member to be appointed by the state public defender or designee
7 thereof; one member to be appointed by the attorney general or a designee thereof; and
8 three members to be appointed by the governor from a list of five nominees submitted by
9 the board of governors of the Missouri bar. In order to ensure that the commission's study
10 is fair, unbiased, and impartial, the various officials appointing members to the
11 commission shall ensure that commission membership reflects ideological balance on the
12 issue of the death penalty. The members of the commission shall serve without
13 compensation, but the members shall be reimbursed for necessary expenses incurred in the
14 work of the commission, such as travel, food, and lodging. The commission shall be
15 appointed on or before December 1, 2002.**

**2. The commission on the death penalty shall hold public hearings and hear
17 witnesses to testify on issues relevant to the administration of the death penalty in
18 Missouri. The commission may create an Internet web site and other means to**

19 communicate with the public and invite citizen input. In making its findings and
20 recommendations, the commission shall hear testimony from the victims of crime, law
21 enforcement officers, prosecutors, and defense lawyers, and members of society with
22 interest in the administration of criminal justice.

23 3. The commission on the death penalty shall be given access to all information
24 relating to death penalty cases and first and second degree murder cases maintained by the
25 Missouri supreme court, inferior state courts, the attorney general, county and state
26 prosecutor offices, and the state public defender system. The commission may contract
27 with universities for research assistance in collecting and analyzing information on all
28 aspects of the death penalty as administered in Missouri.

29 4. The commission shall review all aspects of the death penalty as administered in
30 Missouri. As part of its study, the commission on the death penalty may review and
31 analyze all cases in which charges of second degree murder or first degree murder
32 committed on or after January 1, 1977, were filed. Such review and analysis shall examine
33 all available data concerning:

34 (1) The facts of the offense including mitigating and aggravating circumstances,
35 and information on the impact of the crime;

36 (2) The county in which the charges were filed;

37 (3) The charges originally filed;

38 (4) The crime for which the defendant was convicted or entered a plea of guilty;

39 (5) The sentence imposed;

40 (6) The age, race, gender, religious preference, and economic status of the
41 defendant and of the victim;

42 (7) Evidence that the defendant was mentally retarded;

43 (8) The cost per disposition and implementation of sentence;

44 (9) The identity, number, and experience level of defense counsel at trial, appeal,
45 and post-conviction;

46 (10) The identity, number, and experience level of trial and appellate prosecutors,
47 including employees and staff of the attorney general; and

48 (11) The results of any post-conviction review in state or federal court.

49 5. In considering the experience level of attorneys and the adequacy of resources
50 as described in subdivisions (9) and (10) of subsection 4 of this section, the commission
51 shall consider the experience and training levels required by the Missouri supreme court,
52 the experience and training levels required by the courts and laws of other jurisdictions
53 in which the death penalty is imposed, and the recommendations of national associations.

54 6. The review conducted by the commission shall include new criminal homicide

55 charges filed during the stated period.

56 7. The commission shall report its findings and recommendations regarding the
57 death penalty, including remedies for any deficiencies found by the commission, to the
58 governor, the general assembly, and the Missouri supreme court by January 1, 2005.

59 8. The commission shall make recommendations for amendments to the statutes
60 and court rules pertaining to cases in which the death penalty is sought or imposed to
61 provide assurances that:

62 (1) Defendants who are sentenced to death are in fact guilty of first degree murder;

63 (2) Defendants in cases in which the death penalty is sought are provided adequate
64 and experienced counsel and adequate resources for the defense of their cases at trial;

65 (3) Defendants in cases in which the death penalty is imposed are provided
66 adequate and experienced counsel and adequate resources for the defense of their cases at
67 the appellate and post-conviction stages;

68 (4) Race does not play an impermissible role in determining which defendants are
69 sentenced to death;

70 (5) Appellate and post-conviction procedures are adequate to provide a fair
71 opportunity for the courts of this state to correct errors and injustices that occurred at trial
72 in cases in which the death penalty is imposed, including but not limited to, allowing access
73 to physical evidence for later testing and analysis; and

74 (6) All prosecutors throughout this state use similar criteria to determine whether
75 to seek the death penalty in a case involving criminal homicide.